

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA**

In re

**INCREDIBLE AUTO SALES LLC,**

Debtor.

Case No. **06-60855-11**

**O R D E R**

At Butte in said District this 20<sup>th</sup> day of November, 2006.

Following a hearing held November 6, 2006, and November 7, 2006, on Debtor's "Emergency Motion as to Use Cash Collateral Pursuant to 11 USC Section 363 of the Bankruptcy Code and as to Offer of Adequate Protection to Hyundai Motor Finance Company", together with the objections thereto by Manheim Services Corporation, Auto Auction of Montana, Hyundai Motor Finance Company and Steve's Auto Sales, Inc.; and on Hyundai Motor Finance Company's "Emergency Motion to Prohibit or Condition Use, Sale or Lease of Inventory and/or Cash Collateral", together with the objections thereto by Debtor and Auto Auction of Montana, the Court entered an Order on November 7, 2006, granting Debtor, Hyundai Motor Finance Company; Manheim Services Corporation, d/b/a South Seattle Auto Auction, Auto Auction of Montana, and Steve's Auto Sales, Inc. through Monday, November 13, 2006, to submit a written stipulation, and proposed order, fully resolving Debtor's Emergency Motion as to Use Cash Collateral Pursuant to 11 USC Section 363 of the Bankruptcy Code and as to Offer of Adequate Protection to Hyundai Motor Finance Company, and Hyundai Motor

Finance Company's Emergency Motion to Prohibit or Condition Use, Sale or Lease of Inventory and/or Cash Collateral. Debtor was represented at the hearing by attorneys William L. Needler of Northbrook, Illinois and Clarke B. Rice of Billings, Montana. Additionally, Hyundai Motor Finance Company was represented by attorney Shane Coleman of Billings, Montana; Manheim Services Corporation, d/b/a South Seattle Auto Auction was represented by attorney Christopher Birkle of Billings, Montana; Auto Auction of Montana was represented by attorney Bruce F. Fain of Billings, Montana; and Steve's Auto Sales, Inc. was represented by attorney James A. Patten of Billings, Montana.

Prior to the November 6<sup>th</sup> and 7<sup>th</sup> hearing, First Interstate Bank filed two Motions to Modify Stay on November 2, 2006. Those two motions are scheduled for telephonic hearing on November 22, 2006, at 10:00 a.m. Subsequent to the November 6<sup>th</sup> and 7<sup>th</sup> hearing, Hyundai Motor Finance Company filed a Motion for Entry of Order Allowing Use of Cash Collateral on November 13, 2006. Additionally, Debtor's counsel filed on November 13, 2006, a "Stipulation as to the Use of Cash Collateral Under 11 U.S.C. Section 363 and Adequate Protection Under 11 U.S.C. Section 361 of the Bankruptcy Code". The Stipulation is signed only by William L. Needler and Clarke B. Rice. The Stipulation is not signed by counsel for Hyundai Motor Finance Company, Manheim Services Corporation, d/b/a South Seattle Auto Auction, Auto Auction of Montana, or Steve's Auto Sales, Inc.

Thereafter, counsel for Steve's Auto Sales, Inc. filed a Status Report on November 17, 2006, indicating that Steve's Auto Sales, Inc. was not necessarily agreeable to the previously proposed settlement of Debtor's Emergency Motion as to Use Cash Collateral Pursuant to 11 USC Section 363 of the Bankruptcy Code and as to Offer of Adequate Protection to Hyundai

Motor Finance Company. Counsel for Steve's Auto Sales, Inc. also filed a Motion for Relief from the Automatic Stay. Also on November 17, 2006, Debtor filed an Emergency Motion to Enter Order Approving Cash Collateral Stipulation. Debtor's above Motion was promptly objected to by counsel for Hyundai Motor Finance Company, and the matter is now set for hearing on December 12, 2006, at 10:00 a.m. In addition to objecting to Debtor's Motion, Hyundai Motor Finance Company has also filed an Expedited Motion to Modify Stay, [or] alternative Motion for Appointment of Trustee. Based upon a review of the record,

**IT IS ORDERED** that Debtor's Emergency Motion to Enter Order Approving Cash Collateral Stipulation is granted to the limited extent that Debtor is authorized to use Hyundai Motor Finance Company's cash collateral for the sole purpose of making the payroll that was due to Debtor's current employees as of Friday, November 17, 2006, **provided, however**, that Debtor must submit a budget for such payments to the Court and all parties in interest within five (5) days of the date of this Order.

**IT IS FURTHER ORDERED** that the hearing scheduled by Hyundai Motor Finance Company for December 12, 2006, on Debtor's Emergency Motion to Enter Order Approving Cash Collateral Stipulation is vacated; and such hearing shall be held **Tuesday, December 5, 2006, at 10:00 a.m.**, or as soon thereafter as the parties can be heard, in the 2<sup>ND</sup> FLOOR COURTROOM, FEDERAL BUILDING, 400 N. MAIN, BUTTE, MONTANA.

**IT IS FURTHER ORDERED** that a hearing on Hyundai Motor Finance Company's Expedited Motion to Modify Stay, [or] alternative Motion for Appointment of Trustee shall be held **Tuesday, December 5, 2006, at 10:00 a.m.**, or as soon thereafter as the parties can be heard, in the 2<sup>ND</sup> FLOOR COURTROOM, FEDERAL BUILDING, 400 N. MAIN, BUTTE,

MONTANA.

**IT IS FURTHER ORDERED** that a hearing on the Motion for Relief from the Automatic Stay filed by Steve's Auto Sales, Inc. shall be held **Tuesday, December 5, 2006, at 10:00 a.m.**, or as soon thereafter as the parties can be heard, in the 2<sup>ND</sup> FLOOR COURTROOM, FEDERAL BUILDING, 400 N. MAIN, BUTTE, MONTANA.

BY THE COURT

A handwritten signature in cursive script, reading "Ralph B. Kirscher", is written over a horizontal line.

HON. RALPH B. KIRSCHER  
U.S. Bankruptcy Judge  
United States Bankruptcy Court  
District of Montana